

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN GRYBKO,

Plaintiff,

vs.

BNSF RAILWAY COMPANY,

Defendant.

**4:22CV3261**

**FINAL PROGRESSION ORDER  
(AMENDED)**

Upon notification from Defendant that the motion is unopposed, Plaintiff's motion to amend the final progression order (Filing No. 24) is granted. IT IS ORDERED that the final progression order is amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings currently set with the undersigned magistrate judge on **November 28, 2023 at 9:00 a.m.** by telephone remains as scheduled. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is September 1, 2023. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by September 15, 2023.

**Note:** A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for complete expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:
- |                         |                     |
|-------------------------|---------------------|
| For the plaintiff(s):   | September 15, 2023. |
| For the defendant(s):   | November 16, 2023.  |
| Plaintiff(s)' rebuttal: | December 29, 2023.  |
- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is November 27, 2023.
- 5) The deadline for filing motions to dismiss and motions for summary judgment is December 27, 2023.
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is December 27, 2023.
- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All other deadlines not amended herein remain unchanged. Any requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

Dated this 10th day of July, 2023.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge